IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2006

CORAM:

THE HONOURABLE MR. JUSTICE P. SATHASIVAM
AND
THE HONOURABLE MR. JUSTICE S. TAMILVANAN

WRIT PETITION No.5003 of 1999

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S. Raju ..Petitioner

Vs.

1. The Assistant Commandant
Central Industrial Security Force
Tuticorin Port Trust
Tuticorin 4.

2. The Deputy Commandant
Central Industrial Security Force
Tuticorin Port Trust
Tuticorin 4.

3. The Group Commandant
Central Industrial Security Force
Rajaji Bhavan,
Besant Nagar,
Madras 90. ..Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying of issuance of Writ of Certiorarified mandamus as stated therein.

For petitioner : Mr.R. Kannan

For respondents : Mr. K. Veeraraghavan, S.C.G.S.C.

ORDER

(Order of the Court was delivered by P. SATHASIVAM,J.)

In this writ petition, the petitioner challenges the proceedings of respondents 1 and 2 dated 31.07.1998 and 18.10.1998, respectively,.

2. The petitioner, by name S. Raju of Central Industrial Security Force (in short, 'CISF') Unit, TPT Tuticorin was issued with charge memorandum under Rule 35 of Central Industrial Security Force Rules, 1969, (in short, 'the CISF Rules') by the first respondent on 31.06.1998, which reads as under.

" Gross misconduct, dereliction of duty and unbecoming of a member of an Armed Force in that No.854491557 Constable S. Raju of CISF Unit TPT Tuticorin, while detailed for 'A' shift duty at Green Gate on 22.05.1998, failed to check the cargo properly in Truck No.TCK 495 before endorsing his signature on the delivery challan for going out, due to which, later on 29.5.98, it came to light that the truck No.TCK 495 was allowed to pass out of the Green Gate with the stolen property of 58 bags of plastic pellets concealed under iron scraps (as per delivery challan0. Also No.854491557 Constable S. Raju had accepted illegal gratification of Rs.30/- (Rupees thirty only) from the contractor Mr. J. Joseph for quick movement of the vehicle TCK No.495 on 22.5.98. This act committed by him falls within the meaning of Section 18 of CISF Act, 1968 and hence the charge. "

3. On receipt of charge memorandum on 17.07.1998, the petitioner submitted his reply on 22.07.1998. After considering his reply, based on the statement of the Contractor and after verifying the records relating to Green Gate, the disciplinary authority, awarded the punishment of withholding of one increment for a period of one year without cumulative effect. Questioning the said order, the petitioner preferred an appeal to the second respondent, which was rejected by order dated 18.10.1998. Hence, the petitioner challenges the order of the first and second respondent in this writ petition.

4. The only contention raised by Mr. R. Kannan, learned counsel appearing for the petitioner is that, in the absence of any complaint with regard to alleged receipt of money, viz., Rs.30/-, as gratification, the ultimate conclusion and the order passed by the first respondent cannot be sustained. On the other hand, Mr. K. Veeraraghavan, learned Senior Central Government standing counsel appearing for the respondents submitted that based on the statement of the Contractor and on verification of the relevant records, which amply show that it was the petitioner, who received Rs.30/- from the Contractor, and after affording adequate opportunity, the punishment was imposed by the competent authority, and the same has been confirmed by the appellate authority, there is no ground for interference.

5. In view of the above said rival contentions, we verified the charge memorandum and the reply statement of the petitioner. The materials show that on 22.05.1998, the petitioner was detailed for 'A' shift duty at Green Gate. On that day, one contractor, viz., Joseph has loaded 58 bags of plastic pellets unauthorisedly in Truck No.TCK 495 and over that loaded iron scraps and thus concealed the stolen property of plastic pellets. According to the Department, he then had paid Rs.30/- to the CISF sentry at Green Gate, who made a check in the lorry for quick movement of vehicle and took the lorry out of Green Gate and then unloaded the same at Thangam Godown. This was brought to the notice of the authority concerned on 29.05.1998. Thereafter, the matter was enquired and revealed that the said contractor paid huge amount to one Pitchai, staff of Tuticorin Port Trust and Rs.100/- to another CISF Constable by name A. Annadurai, in addition to Rs.30/- to the petitioner, who was CISF Constable at Green Gate. It is true that no formal complaint from any one. However, it is seen from the materials that the contractor, viz., Joseph made a statement to the authority concerned about his payment to the officers of CISF, including the petitioner, who was in-charge of Green Gate at the

relevant time and date, viz., on 22.05.1998.

6. It is further seen hat based on the statement of the Contractor, the record relating to persons who attended duty at Green Gate, was verified and based on the same, the petitioner was asked to explain. After considering the reply of the petitioner, the disciplinary authority, after satisfying himself, imposed a minor punishment as mentioned above. In such circumstances, merely because there was no formal complaint from any one including the Contractor, viz., Joseph, it cannot be construed that there is no basis for awarding punishment as ordered in this case. Apart from the conclusion of the original authority, the appellate authority, second respondent herein, considered the very same objection raised by the petitioner and after considering all the materials, concurred with the conclusion arrived at by the original authority and rejected the appeal filed by the petitioner.

7. In view of the above said factual details, which were considered by both the authorities, we are unable to accept the only contention raised by the learned counsel for the petitioner. We are also satisfied that the punishment imposed is quite reasonable and justifiable and we find no ground for interference. Accordingly, the writ petition fails and the same is dismissed. No costs.

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To

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